

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS

FILED  
IN CLERKS OFFICE  
2004 JUN 18 P 4: 25

BABCOCK BORSIG POWER GmbH,

Plaintiff,

v.

BABCOCK POWER, INC.,

Defendant.

CIVIL ACTION

NO. 04-10825 (RWZ)

**DEFENDANT BABCOCK POWER, INC.'S  
UNOPPOSED MOTION FOR LEAVE TO FILE REPLY BRIEF**

Defendant Babcock Power, Inc. ("Babcock Power") hereby moves for leave to file a reply to Plaintiff Babcock Borsig Power GmbH's ("BBP") opposition to Babcock Power's motion to dismiss the complaint, which is attached hereto. As grounds therefore, Babcock Power states as follows:

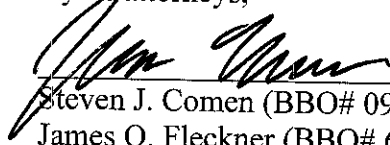
1. BBP's opposition raises new legal arguments to which Babcock Power seeks to respond.
2. Babcock Power suggests that a short reply will aid the Court in consideration of its motion to dismiss the complaint.
3. Counsel for BBP do not oppose Babcock Power's request to file a reply memorandum.

WHEREFORE, Babcock Power respectfully requests that this Court grant its Motion for Leave to File Reply Brief.

Respectfully submitted,

BABCOCK POWER, INC.

By its attorneys,



Steven J. Comen (BBO# 093320)

James O. Fleckner (BBO# 641494)

GOODWIN PROCTER LLP

Exchange Place

Boston, Massachusetts 02109

617-570-1000

DATED: June 18, 2004

#### LOCAL RULE 7.1 CERTIFICATION

I hereby certify that, on June 18, 2004, I conferred with plaintiff's counsel, who consented to the relief requested herein.

  
James O. Fleckner

#### CERTIFICATE OF SERVICE

I hereby certify that a true copy of this document was served upon the attorney of record for plaintiff, Kenneth M. Bello, c/o Bello Black LLP, 535 Boylston Street, Boston MA 02116, by hand, on June 18, 2004.

  
James O. Fleckner